



HT-127

IN THE UNITED STATES PATENT & TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant: Lars Ingvarsson	:	Examiner: Debra M. Sullivan
	:	
Mark: A Production Line And A	:	Group Art Unit: 3725
Method Of Forming Profiles	:	
	:	
Serial No.: 10/590, 183	:	
	:	
Filed: August 18, 2006	:	


Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Mail Stop: Appeal Briefs, Patents

REPLY BRIEF

This Reply Brief is being filed in response to the Examiner's Answer mailed on November 29, 2010, in connection with the pending Appeal.

**I hereby certify that this correspondence is
being deposited with the United States Postal Service
as first class mail in an envelope addressed to
Commissioner for Patents, P.O. Box 1450, Alexandria,
VA 22313-1450, on the date indicated below.**

 1/26/11
MARK P. STONE (Date of Deposit)
Reg. No. 27,954

The Examiner's response to the arguments presented in the Appeal Brief filed on August 30, 2010 are discussed at pages 6 – 7 of the Examiner's Answer.

The Examiner, for the first time during the prosecution of this patent application, relies upon the disclosure at column 5, lines 25 – 42 of the applied Ingvarsson et al patent, in support of the rejection of independent method claim 1. The Examiner contends that of this portion of the disclosure of the applied prior art reference inherently teaches the method defined by appealed independent claim 1. Applicant respectfully disagrees with the Examiner's conclusion.

The disclosure at column 5, lines 25 – 42 of the Ingvarsson et al essentially states that the apparatus illustrated by Figures 11 – 12 of the drawing of that reference is capable of producing sheets that include selective curved shapes within given limits. However, appealed independent method claim 1, when considered in its entirety, positively recites steps not taught or suggested by the portion of the Ingvarsson et al Specification now relied upon by the Examiner. More specifically, there is no teaching or suggestion, either expressly or inherently, of a method in which edge cutters move along the first pair of opposed curved lines; and thereafter roll forming units move along a second pair of opposed curved lines for forming a first pair of corners; and thereafter roll-forming units move along a third pair of opposed curved lines for forming a second pair of corners to each side of the center of the metal strip between the first corners; and in which the curvatures of the first, second, and third pairs of opposed curved lines vary the cross section of the profile formed from the strip.

Applicant respectfully submits that when all positively recited steps of the method defined by independent claim 1 are considered, the method is not taught or suggested by the Ingvarsson et al patent, including the portion of the Ingvarsson et al Specification now relied upon in the Examiner's Answer.

Assuming arguendo that the apparatus illustrated by Figures 11 – 12 of the Ingvarsson et al drawing, (which corresponds to the disclosure at column 5, lines 25 – 42 of the Ingvarsson et al Specification) is capable of performing the method defined by appealed independent claim 1 (a proposition with which Applicant disagrees), this still would not be relevant to the patentability of independent method claim 1. This is because there is no disclosure, either express or implied in the Ingvarsson et al patent itself, of the specific method defined by independent claim 1, or that the disclosed apparatus is capable of performing the claimed method. On the contrary, claim 1 is a method claim. Assuming arguendo that the disclosed apparatus is “capable of” performing the claimed method, this alone, without any supporting disclosure or suggestion of the claimed method, does not negate the patentability the method defined by independent claim 1. On the contrary, independent method claim 1 would still be entitled to patent protection as a new use of a known machine, which does not recognize the claimed method. 35 U.S.C. Section 100(b).

Notwithstanding the arguments presented in the preceding paragraph, Applicant respectfully submits that the apparatus disclosed by the Ingvarsson et al patent is not capable of performing the method defined by appealed independent claim 1. At page 4 of the Examiner's Answer, the Examiner states that the corners 27, 28 of Figure 3 of the Ingvarsson et al patent are first formed, and thereafter the bottom corners are formed. However, this conclusion is incorrect. As can be seen, from Figure 5 of the Ingvarsson et al patent, the forming rollers are shaped to engage and form both "corners" 27, 28, and the bottom corners, simultaneously. There is no teaching or suggestion in the Ingvarsson et al patent that the other pairs of forming rollers operate in a contrary manner. Therefore, the height of the sides 25, 26 is constant along the length of the profile, and it is impossible to vary the height of the sides 25, 26 of the profile using the device disclosed by the Ingvarsson et al patent.

Contrary to the disclosure of the Ingvarsson et al patent, the method defined by appealed independent claim 1 expressly recites, inter alia, "... wherein the curvatures of the first, second, and third pairs of the opposed curved lines vary the cross section of the profile formed from the strip along the length thereof." As illustrated by Figures 6 – 8 of Applicant's drawing, varying of the curvatures of the first, second, and third pairs of opposed curved lines vary the cross section of the formed profile, including both the width (76) and the height of the opposed upwardly extending sides (77, 78). Therefore, the method defined by independent claim 1, when all positively recited steps of the claimed method are considered in the

patentability determination, enables varying both the width and the height of the profile during a sole movement of the strip down the production line as the roll forming units are controlled along the second and third pairs of curved lines. The apparatus disclosed by the Ingvarsson et al patent, as discussed above, is not capable of varying the height of the side walls of the formed profile, which remain constant along the length thereof.

The Green et al patent has been combined with Ingvarsson et al to result in a device “... to prevent stress and buckling on the walls while deforming the edges ...” (see page 4, last 4 lines, through page 5, line 2, of the Examiner’s Answer). However, the prevention of stress and buckling on the walls while deforming the edges is simply not an issue in this appeal.

Since neither the Ingvarsson et al or Green et al patents teaches or suggests a method for forming a profile using three pairs of opposed curved lines for varying a cross section of the profile, including the height and width thereof during the same movement of the profile along the production line, a combination of Ingvarsson et al and Green et al likewise cannot teach or suggest the specific method defined by independent claim 1.

For the reasons discussed herein, in the previously filed Appeal Brief, and during the prosecution of this patent application, Applicant respectfully submits that independent claim 1 is allowable over the prior art applied to reject it in the Final Action, and that remaining

rejected dependent claims on appeal are allowable, at least for the same reasons as parent independent claim 1.

Applicant respectfully requests that the prior art rejection of the appealed claims be reversed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark P. Stone', written in a cursive style.

Mark P. Stone
Registration No. 27, 954
Attorney for Applicant
50 Broadway
Hawthorne, NY 10532
(914) 769-1106